

### **REMARKS**

Claims 1-37 are currently pending in the subject application and are presently under consideration. Claims 1, 4, 22, 31, 33 and 34 have been amended as shown on pages 2-7 of the Reply. Claim 37 has been newly added. The below comments present in greater detail distinctive features of applicants' claimed invention over the cited art that were conveyed to the Examiner over the telephone on January 28, 2008.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

#### **I. Rejection of Claim 4 Under 35 U.S.C. §102(b)**

Claim 4 stands rejected under 35 U.S.C. §112, second paragraph, due to certain informalities. In view of amendments to subject claim, this rejection should be withdrawn.

#### **II. Rejection of Claims 1-19 Under 35 U.S.C. §101**

Claims 1-19 stand rejected under 35 U.S.C. §101 because the claims invention is directed to non-statutory subject matter. In view of amendments to subject claims, this rejection should be withdrawn.

#### **III. Rejection of Claims 1-36 Under 35 U.S.C. §102(b)**

Claims 1-19 stand rejected under 35 U.S.C. §102(b) as being anticipated by Ravindran, Engineering Dynamic Real-Time Distributed Systems: Architecture, System Description Language, and Middleware, January, 2002. Ravindran does not teach each and every element of the claimed subject matter as recited in the subject claims.

A single prior art reference anticipates a patent claim only if it expressly or inherently describes *each and every limitation* set forth in the patent claim. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). *The identical invention must be shown in as complete detail as is contained in the ... claim.*

*Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). (emphasis added).

The claimed subject matter relates to systems and methods that manages applications, and more particularly to systems and methods that use attribution to express management information in an application or service. In particular, independent claim 1 recites *a machine-implemented system that facilitates management of an application or service, comprising: an application or service for installation on the system; and an attribution component that facilitates attributing selected parts of code of the application or service with management information; where the system uses the management information to manage the installed application or service.* Ravindran does not teach or suggest the aforementioned novel aspects of applicants' claimed subject matter.

Ravindran provides for system and method for developing a dynamic real-time distributed system application in programming language. Operational requirement of the system such as timeliness and survivability are specified into a system description language. The dynamic model is used by resource management middleware strategies to perform resource management that achieves the timeliness and survivability requirement. The middleware techniques achieve the timeliness and survivability requirement through run-time monitoring and failure detection, diagnosis and dynamic resource allocation.

At page 4 of Office Action, Examiner erroneously asserts that Ravindran teaches *an attribution component that facilitates attributing selected parts of code of the application or service with management information*, with respect to independent claim 1. The cited portion of reference (Ravindran) provides for specification of a sub-system which includes describing its name, relative priority, and the set of application programs, devices and end-to-end tasks that constitute the sub-system. Specification of an application program includes describing its name and attributes such as Boolean properties which indicate whether the application program can be replicated for survivability and whether the application program can be replicated for scalability to adapt the application program to increase in workloads (Section 7, System Description Language). Hence Ravindran provides for describing attributes such as Boolean properties that indicate only whether the application program can be replicated for

survivability and whether the application program can be replicated for scalability to adapt the application program to increase in workloads. Further Ravindran provides for describing attributes separately and including them in the specification and thereby increasing the code of application and the described attributes only indicates survivability and scalability of the application program. Nowhere Ravindran teaches or suggests adding attribution to selected parts of code of the application or service with management information and wherein attributed parts are considered probes for use in determining the health of the associated subcomponent and the application. Through this feature, the claimed subject matter facilitates a developer to avoid writing and maintaining two separate pieces of code—one for normal application processing and a second one to expose it to management. With attribution, the second body of code and the associated maintenance and consistency issues are substantially eliminated making it much easier for developers to participate in management.

Accordingly, applicants' representative respectfully submits that Ravindran fails to teach or suggest all limitations of applicants' claimed subject matter as recited in amended independent claims 1, 22, 31, 33 and 34 (and claims that depend there from). Consequently, this rejection should be withdrawn.

**CONCLUSION**

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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